

400 KAR 2:090. Management, use, and protection of nature preserves.

RELATES TO: KRS 146.410, 146.440

STATUTORY AUTHORITY: KRS 146.465, 146.475, 146.485

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.485(2) authorizes the commission to promulgate administrative regulations for the management, use, and protection of nature preserves. KRS 146.465 authorizes the commission to acquire natural areas for the purpose of dedicating the areas as nature preserves. KRS 146.475 requires that a nature preserve shall be subject to administrative regulations promulgated by the commission. This administrative regulation establishes the requirements for the management and use of all nature preserves and to fulfill the purposes of KRS 146.440.

Section 1. Applicability. This administrative regulation shall apply to a nature preserve unless a specific exception is set forth in the articles of dedication. The reasons for any exception shall be set forth in the records of the commission.

Section 2. Boundary Markers. (1) Nature preserve boundaries shall be made evident by posting boundary markers in a conspicuous manner.

(2) If a boundary fence or barrier is installed, it shall not be in a form that will create a detrimental effect on the movement of wildlife or other natural objects.

Section 3. Encroachments. There shall not be encroachments of structures, easements, rights-of-way, or land uses that do not conform to this administrative regulation and with the purposes and definition of a nature preserve as specified in KRS 146.410 to 146.530, except as allowed by the articles of dedication.

Section 4. Emergency Situations. (1) An emergency situation shall be reported immediately to the director of the commission.

(2) An emergency situation that requires immediate action to prevent injury to persons or damage to property shall be handled in a manner that minimizes damage to natural conditions.

Section 5. Internal Access Lanes. (1) An internal vehicular access lane shall be installed and maintained within a nature preserve only where essential for patrol, fire control, management, or research activities and shall be in accordance with the preserve management plan.

(2) An internal vehicular access lane shall:

- (a) Be limited to service vehicles or, in an emergency situation, rescue vehicles; and
- (b) Provide a single track not to exceed ten (10) feet in width.

Section 6. Fire Control. (1) If a boundary firebreak is needed, it shall be constructed in a buffer area outside the nature preserve if possible.

(a) A firebreak within a nature preserve shall be kept to a minimum and shall be constructed only in accordance with the preserve fire management plan.

(b) A temporary firebreak made by mowing, raking, blowing, wetting, or black lining may be used in conjunction with a managed burn.

(2)(a) A wildfire shall be brought under control as quickly as possible if there is imminent danger to lives or adjacent property.

(b) Fire lines shall be constructed with hand tools rather than heavy equipment, to minimize damage to the preserve.

(c) If there is no danger to lives or adjacent property and the fire can be contained at the

preserve boundary, the commission may assess the benefit of allowing a wildfire to burn and shall inform the entity having fire suppression responsibility of its decision to suppress a wildfire or to allow it to burn.

(d) There shall not be any cleanup, fire hazard reduction, or replanting after a fire within a nature preserve, except with the written approval of the commission. Approval shall be based upon health and safety considerations or the need for habitat restoration.

(3) If undertaken, prescribed burning shall be conducted in accordance with a prescribed fire plan prepared for each burn unit and in accordance with the preserve management plan.

(4) During a prescribed burn:

(a) Fire shall be kept away from fences and other structures that may be damaged;

(b) Burning shall not be done under conditions more hazardous than specified in the prescribed burn plan;

(c) Firefighting chemicals that are known to cause damage to or alter a natural condition shall not be used; and

(d) The use of a vehicle or equipment shall:

1. Be specified in the prescribed burn plan; and

2. Not cause permanent damage or alteration to the natural features of the nature preserve.

Section 7. Trails. (1) A trail system shall conform to the objectives of the nature preserve. A trail shall:

(a) Be designed to affect only part of the nature preserve and to have minimal impact on natural features; and

(b) Not have a significant impact on animals or plants monitored by the commission or on archaeological resources located within the preserve.

(2) Location and form of a trail other than a natural wildlife path shall be approved or denied by the commission, in accordance with the preserve management plan.

(3) A trail shall be kept to a single file width sufficient to allow one (1) person to pass another but not wide enough to allow two or more people to walk abreast of one another and shall be adequate to provide for permitted use of a nature preserve and to prevent erosion, trampling of vegetation, and other deterioration. "A wider trail may be constructed when the surrounding vegetation type, such as grasslands would require excessive maintenance to keep the trail open, and shall be specified in the preserve management plan."

(4) Trail construction.

(a) Use of paving materials, footbridges, or elevated walks is permissible if provided for in the trail plan section of the preserve management plan, but shall be kept to a minimum in order to limit damage to the preserve.

(b) Synthetic materials, painted or chemically treated wood, or stone or earth materials from outside the nature preserve shall not be used in trail construction unless specified in the preserve management plan.

(5) Animals or plants monitored by the commission shall not be removed, damaged, or altered in trail construction or maintenance.

Section 8. Other Structures and Improvements. (1) Necessary signs, information kiosks, trash receptacles, and minor structures required to house research instruments or hand tools shall be permitted within a nature preserve if specifically required in the preserve management plan or permitted by the commission for research activities.

(2) Any other structure shall be located in a service area.

(3) Any sign or structure shall be approved or denied by the commission, in accordance with the preserve management plan.

Section 9. Service Areas. Service areas may be established within a nature preserve to provide access and parking, management facilities, and visitor facilities. Provision for a necessary service area may be included in the articles of dedication or after a finding by the commission that the designation is warranted and in accordance with the articles of dedication.

Section 10. Scenic and Landscape Management. (1) Measures shall not be taken to alter natural growth or features for the purpose of enhancing the beauty, neatness, or amenities of a nature preserve, except as established in this section and sections 2, 5, and 7 through 9 of this administrative regulation. Cutting of grass, brush, or other vegetation, thinning of trees, removal of dead wood, opening of scenic vistas, or planting shall not be performed except after a finding by the commission that the action does not irreparably harm the preserve and is in accordance with the preserve management plan.

(2) Installation of guard rails, fences, steps, and other devices necessary for visitor safety shall conform to the preserve management plan. Dead trees or branches that constitute a safety hazard to persons on trails or in other authorized use areas may be felled or cleared.

(3) Except as provided in the articles of dedication or as approved by the commission, there shall not be any removal, introduction or consumptive use of any material, product, or object from a nature preserve, except as established in this administrative regulation. The following activities shall be prohibited:

- (a) Grazing by domestic animals;
 - (b) Farming;
 - (c) Gathering of firewood;
 - (d) Gathering of plant or mushroom products;
 - (e) Mining, quarrying or mineral extraction, fossil or rock collection;
 - (f) Dumping, burying or spreading of garbage, trash or other materials;
 - (g) Logging; and
 - (h) Any other human activity that results in damage to or loss of natural features of the preserve.
- (4) An artifact shall only be removed or demolished as follows:
- (a) An old interior fence may be removed. Prior to removal, its location shall be mapped, leaving posts to mark boundaries between former land uses; and
 - (b) Rubbish may be removed.
- (5) Structures lacking utilitarian, historical, scientific, or habitat value may be demolished or removed.

Section 11. Water Level Control. Natural water levels shall not be altered. Water levels that have been altered by humans may be changed if identified as being essential for the maintenance or restoration of natural conditions.

Section 12. Erosion Control. Erosion and soil deposition due to past or present disturbance by humans or natural conditions within or outside of a nature preserve may be controlled as needed for the maintenance or restoration of natural conditions.

Section 13. Management of Animals and Plants. (1) Control of plant succession.

(a) Control of plant succession by deliberate manipulation may be undertaken if preservation or restoration of a particular vegetation type or preservation of animals or plants monitored by the commission is designated an objective of the nature preserve by the commission.

(b) If undertaken, plant succession control measures shall be undertaken as outlined in the

preserve management plan to meet objectives referenced in Section 13(a) of this administrative regulation.

(c) Vegetation may be managed. If managed, the following limitations shall apply:

1. Plant species not native to the site or vicinity may be eliminated by cutting, girdling, grubbing, cut stump, or basal or foliar application of specified herbicide;

2. The time of burning during the year, the frequency of burning, and the fractional amount of the area that may be burned each year shall be specified; and

3. Invading native woody species may be eliminated or controlled by cutting, girdling, grubbing, cut stump, or basal or foliar application of specified herbicide.

(d) The use of herbicides shall be specified in the management plan for each preserve.

(2) Control of noxious species.

(a) Plants or animals that are noxious in fact shall be controlled only if they are documented as jeopardizing populations of plants and animals or the natural integrity of the nature preserve.

(b) Except for removal from a trail, access lane, or firebreak as authorized by this administrative regulation, there shall not be any control of a native plant that is not noxious but may otherwise appear undesirable.

(c) There shall not be any control of native predators, rodents, insects, snakes, or other animals, even though they may appear harmful or undesirable, unless they are documented as jeopardizing populations of native plants or animals, or the natural integrity of the nature preserve.

(d) There shall not be any use of a pesticide except as authorized in the preserve management plan.

(3) Control of exotic species.

(a) Control of exotic plants or animals may be undertaken. If control of exotic plants is undertaken, it shall be done in accordance with Section 13(1)(c) of this administrative regulation.

(b) If control of exotic animals is undertaken it shall be done in accordance with Section 13(2) of this administrative regulation.

(4) Any measure for population control of any species shall be established in the preserve management plan.

(5) Management of plants or animals monitored by the commission and species of management concern.

(a) Habitat manipulations and protective measures in favor of particular species shall be undertaken only as approved by the commission. Approval shall be based upon a finding by the commission that describes the proposed activities and addresses species life history, habitat requirements of the species, characteristics and objectives of the preserve and other relevant information.

(b) Control of plant succession in favor of particular species shall be as provided in this administrative regulation.

(6) Introduction of plants and animals. Plants, animals, or their reproductive bodies shall not be brought into a nature preserve or moved from one (1) place to another within a preserve except with approval of the commission. Approval shall be based upon scientific evidence documenting the species' historical occurrence on the preserve. Restoration shall be performed with caution and based on a finding that the actions shall not adversely affect natural conditions on the preserve.

Section 14. Use Tolerance. (1) Human use of a nature preserve shall be allowed only to the extent and in a manner that shall not impair natural conditions.

(2) The articles of dedication may specify the controls and restrictions to be placed on ac-

cess and use.

(3) The commission as owner, or the landowner and the commission upon agreement, may further restrict access and use as necessary to protect the nature preserve.

Section 15. Character of Visitor Activity. (1) Visitor activity shall be regulated to prevent disturbance of a nature preserve beyond what it can tolerate without permanent deterioration. A visitor without a permit for research or educational activities shall be restricted to trails and areas open to off-trail use and may be otherwise restricted in movement. A person wishing to traverse a nature preserve elsewhere than on a trail or other area open to visitation shall obtain permission from the commission.

(2) Public use shall be in accordance with the articles of dedication of the preserve.

(3) Hunting, fishing, and trapping shall not be allowed unless provided for in the articles of dedication for the nature preserve and shall be subject to 400 KAR Chapter 2. The commission may approve hunting, fishing, trapping or other control methods if necessary to ensure that the preserve is protected from a documented imbalance of species or impending animal disease.

(4) A visitor shall not bring an animal into a nature preserve, except for a service animal.

(5) A visitor carrying a deadly weapon on a nature preserve shall not discharge the weapon unless it is necessary for either self-defense or hunting if the visitor has previously obtained permission from the commission to hunt on the nature preserve or hunting is provided for in the articles of dedication.

(6) A preserve that is open to visitors shall be open sunrise to sunset.

(7) Trails shall be open to foot traffic only. Travel on horse, bicycle, or motorized vehicle shall be prohibited at all times.

(8) Rock climbing and rappelling shall be prohibited at all times.

(9) Possessing or using non-prescription drugs or alcohol shall be prohibited at all times.

(10) Camping, picnicking, building fires, using audio equipment (except if part of research approved by the commission) shall be prohibited at all times.

(11) Collecting plants, fungi, animals, minerals, rocks, wood or artifacts shall be prohibited at all times except for approved scientific studies in accordance with Section 19 of this administrative regulation.

Section 16. Access Control. (1) Ingress and egress shall be allowed only at locations and under conditions as may be specified by the commission in the preserve management plan.

(2) The owner, custodian, and commission have the authority to further limit access as may be necessary for protection and proper management of the nature preserve.

Section 17. Orientation and Guidance of Visitors. Orientation and guidance of visitors shall be in accordance with the articles of dedication, and as approved by the commission. Interpretive signs, structures or labels shall be of uniform appearance.

Section 18. Permission for Research or Educational Activities. (1) A person wishing to engage in research or educational activities on a nature preserve shall secure prior permission of the commission. If the activities are to be carried on by a group, permission may be issued to the group leader who shall be responsible for the actions of the group. Permission or denial shall be based upon information provided in the application for permission, the purpose stated for the research, and an assessment of any damage that may result from the activity.

(2) Permission shall be required for educational use of a preserve only if activities include collecting or activities other than walking and observation or if the preserve is not open to the public.

(3)(a) The application for permission shall be on a form prescribed by the commission and shall include the:

1. Name of the applicant;
 2. Mailing address of the applicant;
 3. Occupation of the applicant;
 4. Professional qualifications of the applicant;
 5. General field of interest of the applicant; and
 6. Description of the applicant's proposed activities, including the:
 - a. Objectives, methods and procedures to be followed;
 - b. Records to be kept;
 - c. Location and duration of the project areas to be visited;
 - d. Frequency and length of visits; and
 - e. Detailed description of disturbances to be made to the preserve.
- (b) Information shall be provided on the:
1. Species or objects to be taken;
 2. Number of specimens;
 3. Method of taking; and
 4. Disposition of specimens.

(c) The commission shall provide permission application forms to persons requesting them.

(4)(a) The permission may contain specific provisions and restrictions.

(b) Permission may be modified, suspended, or revoked by the commission for violations of the conditions of permission, this section, or based upon a determination of the commission that the activity jeopardizes the nature preserve.

(c) Each holder of permission shall submit to the commission an annual report or progress report.

(d) Permission for an activity of no more than the calendar year expires on December 31 of that year. Permission for an activity of longer than one (1) year may be extended annually upon submission of an annual report and request for an extension.

Section 19. Collecting on Nature Preserves. (1) A person wishing to collect a scientific specimen for deposition in a permanent institutional collection available to the public or for purposes of an approved research project shall do so pursuant to terms of permission as specified in this administrative regulation.

(2) Permission may restrict the collecting of certain species or specimens. Material for classroom laboratory observation or study shall not be collected. Exceptions may be provided in the articles of dedication of the nature preserve, or as set forth in the preserve management plan.

Section 20. Record. (1) A record shall be kept for each nature preserve.

(2) One (1) copy of the record required by subsection (1) of this section shall be held by the commission at its Frankfort office.

(3) The record shall include annual reports of the custodian and all other pertinent documentary material, studies, reports, and descriptions of significant events.

(4) Responsibility for assembling the record shall be with the commission director, in conjunction with the custodian of the nature preserve.

Section 21. Management Plan. Each nature preserve shall be managed in strict accordance with the most recent approved management plan that sets forth the allowable activities to take place on the preserve as related to:

- (1) Natural community and rare species protection;

- (2) Resource restoration and enhancement;
- (3) Archeological and historical resource protection;
- (4) Staffing;
- (5) Security;
- (6) Safety;
- (7) Public access and interpretation;
- (8) Maintenance of the preserve;
- (9) Coordination of management activities with adjacent landowners and other federal and state resource protection agencies; and
- (10) Research and education.

Section 22. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Collecting/Access Permit Application for Kentucky State Nature Preserves," October 2011; and

(b) "Research Permit Application for Kentucky State Nature Preserves," October 2011.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Nature Preserves Commission, 801 Schenkel Lane, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. (13 Ky.R. 1322; eff. 2-10-1987; 38 Ky.R. 623; 1123; 1-6-2012.)